

REMARKS

Present Status of Application

This is a full and timely response to the outstanding non-final Office Action mailed on April 11, 2006. The Office Action has objected to the drawings because the images are unclear. The Office Action has objected to claims 1-11 because of various informalities. The Office Action has also rejected claims 1-12 under 35 U.S.C. 112, second paragraph, as being indefinite. The Office Action has further rejected claim 1 as being anticipated by Noevir (JP2003292432A), Kobayashi et al. (JP2001078745), and Whittle (USP 5,466,452), respectively. Finally, the Office Action has rejected claims 1-8 under 35 USC§103(a) as being unpatentable over Whittle (USP 5,466,452) in view of Yoshioka et al. (USP 6,337,089) and has rejected claims 1-12 under 35 USC§103(a) as being unpatentable over Noevir (JP2003292432A), Nakayama et al. (US Pub. 2003/0198610), Ishikawa et al. (US Pub. 2002/0187166), Huang et al. (US Pub. 2003/0165533), Grollier et al. (USP 4767,618) and Liang et al. (US Pub. 2002/0031559).

Applicants have amended claims 1-12 to more appropriately define the present invention and address the informality issues. After entry of the foregoing amendments, claims 1-12 remain pending in the present application. It is believed that no new matter is added by way of these amendments made to the claims or otherwise to the application.

Applicant has most respectfully considered the remarks set forth in this Office Action. Regarding the anticipation and obvious rejections, it is however strongly

believed that the cited references are deficient to adequately teach the claimed features as recited in the presently pending claims. The reasons that motivate the above position of the Applicant are discussed in detail hereafter, upon which reconsideration of the claims is most earnestly solicited.

Discussions for Drawing Objections

The Office Action has objected to the drawings because the images are unclear.

In response, Applicant submitted herewith replacement figures 1-10, which are identical to the original Figures 1-10, but with better quality.

Discussions for Claims Objections

Claims 1-11 are objected to because of informalities.

In this regards, Applicants have amended the claims according to the suggestions offered by the Examiner. It is respectfully requested that the objections be withdrawn.

Discussions for 35 U.S.C. §112, 2nd paragraph rejections

Claims 1-12 are rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(1) The Office Action considers that the metes and the bounds of Claims 1-11 are uncertain because it is unclear as to the identification of the ingredients to which Applicant intends to direct the subject matter.

In response thereto, Applicant has included the standard Latin genus-species name of each ingredient along with the non-technical nomenclature as a means for identifying the subject botanical as noted in this application. Reconsideration of the rejections is thereby respectfully requested.

(2) The Office Action also considers that the limitation “it contains” in claim 1 lacks sufficient antecedent basis.

In response thereto, Applicant has amended the limitation “it contains” to recite “the cream contains”. Reconsideration of the rejection is thereby respectfully requested.

(3) The Office Action also considers that the metes and bounds of claim 6 are rendered uncertain by the phrase “said accelerating agent” because it is unclear whether Applicant is referring to an accelerator for skin permeation or an accelerator for keratinization.

Applicant respectfully submits to the Office that claim 6 recites “said accelerating agent for keratinization”. Therefore, it is clear that Applicant is referring to an accelerator for keratinization and not for skin permeation. Withdrawal of the rejection is respectfully requested.

(4) The Office Action also considers that the metes and bounds of claim 7 are uncertain because the amounts of the ingredients are not set forth in terms of either “by volume” or “by weight” amount of the total composition. In response thereto, Applicant

has amended claim 7 to recite “the volume ratios of the extracts”. Reconsideration of the rejections is respectfully requested.

Discussions for 35 U.S.C. §102 & 103 rejections

Claim 1 is rejected under 35 USC §102(b) as being anticipated by Noevir (JP2003292432A).

Claim 1 is rejected under 35 USC §102(b) as being anticipated by Kobayashi (JP2001078745).

Claim 1 is rejected under 35 USC §102(b) as being anticipated by Whittle (USP 5,466,452).

Applicant respectfully submits that the independent claim 1 patently define over Noevir, Kobayashi and Whittle for at least the reasons that these cited references fail to disclose each and every feature as claimed in the present invention. In particular, claim 1 of the invention teaches, “[a] cream for a treatment of dermatitis characterized in that the cream contains extracts drawn from Lightyellow Sophora Root (*Sophorae Flavescensis* Ait.) and Isatis Leaf (*Isatis tinctoria* L.)”.

On the other hand, the prior art reference Noevir teaches a skin external preparation containing extracts from turmeric, magnolia bark, cnidium rhizome, Angelica radix. Noevir does not teach or suggest the preparation containing the claimed features of Lightyellow Sophora Root (*Sophorae Flavescensis* Ait.) and Isatis Leaf (*Isatis tinctoria* L.). Further, the skin external preparation of Noevir is directed to cosmetic purposes, such as foundation or cleansing cream, rather than to the treatment of a disease.

The prior art reference Kobayashi teaches a skin care preparation that contains turmeric and moutan bark. Similar to Noevir, Kobayashi also fails to teach a cream that contains extracts drawn from Lightyellow Sophora Root (*Sophorae Flavescens* Ait.) and Isatis Leaf (*Isatis tinctoria* L.).

The prior art reference Whittle teaches a composition that comprises alcohol extracts of licorice, lightyellow sophora root, moutan bark and Baikal skullcap. However, Whittle is completely silent about a cream that contains extracts drawn from Isatis Leaf (*Isatis tinctoria* L.)

For at least these reasons, Applicants respectfully submit that the prior art references Noveir, Kobayashi and Whittle fail to render the claimed invention anticipated. Withdrawal of the rejections is respectfully requested.

Claims 1-8 are rejected under 35 USC §103(a) as being unpatentable over Whittle in view of Yoshioka et al. (USP 6,337,089, Yoshioka hereinafter).

With regard to the 103 rejection of claims 1-8 over Whittle in view of Yoshioka, Applicants respectfully submit that these claims defined over the prior art references for at least the reasons discussed above.

As previously discussed, Whittle fails to teach the application of Isatis Leaf (*Isatis tinctoria* L.) in a cream for a treatment of dermatitis.

Regarding Yoshioka, Yoshioka is completely silent about the claimed features of Lightyellow Sophora Root (*Sophorae Flavescens* Ait.) and Isatis Leaf (*Isatis tinctoria* L.) as taught in claim 1. Instead, Yoshioka teaches a microcapsule that contains a core

material and a method for producing the same. Although Yoshioka suggests that the core material could be extracted components including glycyrrhiza extract, Japanese angelica root extract and lemon extract, Yoshioka fails to teach or suggest that the application of the extracted components is directed to a treatment of skin disorder. Moreover, the objective of Yoshioka's invention is directed to a microcapsule constructed with an organopolysiloxane wall and the fabrication method thereof. Accordingly, the motivation to combine Whittle with Yoshioka is not adequate.

However, even if Whittle is combined with Yoshioka, the combination still fails to render claim 1 of the invention unpatentable because the combination fails to teach or suggest each and every issue recited in claim 1.

Since claims 2-7 are dependent claims, which further define the invention recited in claim 1, Applicants respectfully assert that these claims are also in condition for allowance. Favorable consideration and allowance of the present application and all pending claims are hereby courteously requested.

Claims 1-12 are rejected under 35 USC §103(a) as being unpatentable over Whittle in view of Yoshioka, Nakayama et al. (US Pub. 2003/0198610, Nakayama hereinafter), Ishikawa et al. (US Pub. 2002/0187166 Ishikawa hereinafter), Huang et al. (US Pub. 2003/0165533, Huang hereinafter), Grollier et al. (US Pub 2002/0031559, Grollier hereinafter) and Liang et al. (US Pub 2002/0031559, Liang hereinafter),

With regard to the 103 rejection of claims 1-12 by Whittle in view of Yoshioka, Nakayama, Ishikawa, Huang, Grollier and Liang, Applicants respectfully submit that

these claims defined over the prior art references for at least the reasons discussed above.

As recognized by the Office, none of the cited references teaches a cream for treatment of dermatitis that contains Isatis Leaf, leaf of the plant *Isatis tinctoria* L.. Although Huang teaches a composition comprising *Isatis Indigotica* Fort., *Isatis tinctoria* L. and *Isatis Indigotica* Fort. are different plants, which exhibit many morphological, chemical and genetic differences. Therefore, the combination of these references fails to render claims 1-12 of the instant invention unpatentable.

Additionally, claims 8-12 of the instant invention teach the specific combinations of the various main ingredients, auxiliary agents, and accelerating agents for keratinization and skin permeation and the volume ratios thereof. However, each of the prior art references only teaches a few of the claimed ingredients. Further, none of the prior art references teaches the specific volume ratios of respective ingredients taught by the instant application. Applicant respectfully disagrees with the Office's assertion that although these references fail to teach or suggest a cream for a treatment of dermatitis comprising Lightyellow Sophora Root (*Sophora flavescens* Ait.), Turmeric (*Curcuma aromatica* Salisb.), Magnolia Bark (*Magnolia officinalis* Rehd. Et. Wils.), Moutan Bark (*Paeonia suffruticosa* Andr.), Isatis Leaf (*Isatis tinctoria* L.), Borneo Camphor Tree (*Dryobalanops aromatica* Gaertn. f.), Baikal Skullcap (*Scutellaria baikcalensis* Georgi.), Amur Cork Tree (*Phellodendron amurense* Rupr.), Angelicae Dahuricae Root (*Angelica dahurica* Benth. Et Hook.), Lemon (*Citrus Limonum*), Smartweed (*polygonum cuspidatum* Sieb. Et Zucc), Licorice (*Glycyrrhiza uralensis* Fishch.), Cnidii Rhizoma (*Ligusticum chuanxiong* Hort), Japanese Angelica Root (*Angelica sinensis* (Olive)

Diels.), salicylic acid, resorcinol, mutton oil, alcohol, and white soft paraffin, etc., and the specific amounts of each component in a volume ratio, it would have been obvious to one of ordinary skill in the art and one would have been motivated to modify Whittle to make a skin care composition as taught by the invention by combining with the teachings of Yoshioka, Nakayama, Ishikawa, Huang, Grollier and Liang, which teach some of the ingredients for used of the various purposes (including the formation of a microcapsule with a core material) in the amounts different from the claimed invention. The present invention has illustrated and identified the role of each ingredient in the composition, wherein the ingredients may serve as the main ingredients, auxiliary ingredients, or accelerating agents for skin permeation and keratinization, and has demonstrated the synergistic effects of combining of these ingredients in good balance in order to obtain optimal pharmacological effects in treating dermatitis. However, not only none of these references teaches the claimed composition and specific the appropriate amount in volume ratio for each ingredient, some of the ingredients disclosed by some of these references are for purposes other than a treatment of dermatitis, for example, the glycyrrhiza extract in Nakayama for skin whitening effects, dryobalanops aromatica and angelica dahurica for herbal suppositories, etc. Therefore, the conclusion that it is obvious to modify and combine these references to meet the claimed invention is unsubstantiated. Applicant would like to courteously remind the Office that the mere reference to common knowledge or common sense is insufficient to supply the motivation or suggestion to combine prior references to support an obvious rejection without evidentiary support in the record. See MPEP 2144.03.

Further, the Office relies on a total of 7 references to render claims 1-12 unpatentable. The fact that a multiplicity of references (over three) is required to be combined to meet an invention is evidence of unobviousness, let alone the fact that the combination of all the cited references fail to teach or suggest each and every feature in the claims.

For at least these reasons, Applicant respectfully asserts that the prior art references fail to render claims 1, 8-12 unpatentable. Since claims 2-7 are dependent claims, which further define the invention recited in claim 1, Applicants respectfully assert that these claims also are in condition for allowance. Thus, reconsideration and withdrawal of this rejection are respectively requested.

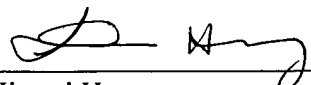
CONCLUSION

In view of the foregoing, it is believed that all pending claims are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

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4 Venture, Suite 250
Irvine, CA 92618
Tel.: (949) 660-0761
Fax: (949)-660-0809

Respectfully submitted,
J.C. PATENTS


Jiawei Huang
Registration No. 43,330